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IN THE UNITED STATES PATENT AND TRADEMARK
BEFORE THE TRADEMARK TRIAL AND APPEAL B

04-22-2003

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #73

In the Matter Of: Trademark Application No. 76/111835 for
THIS WEEK IN HISTORY AND DESIGN in Classes 9, 16, 41; Published July 3, 2001

AO.COM, LLC,

Opposer,

v.

A&E TELEVISION NETWORKS

Applicant.

Opposition No. 123,817

Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202

MOTION FOR ACCEPTANCE OF ORIGINAL MAILING DATE

Applicant hereby requests that the attached paper be accepted as having been mailed on the original mailing date of April 14, 2003. It is noted:

1. The attached MOTION TO DISMISS was prepared for mailing in the undersigned's mailroom on April 14, 2003. The envelope containing this paper (and other papers for the Commissioner of Trademarks) was weighed on the firm's postage scale and a postage

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal service as First Class Mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 on the date shown below:

MARIE-ANNE MASTROVITO


Signature

Date April 17, 2003

meter sticker reflecting the appropriate postage of \$3.95 was affixed to the envelope.

2. Following affixation of the postage, the envelope was hand carried to the United State Post Office on the evening of April 14, 2003 and was deposited in the mail chute inside the Post Office prior to the last pickup of the day.

3. This paper, and other papers in the envelope in question all included a Certificate of Mailing verifying the date of mailing as April 14, 2003.

4. Despite the affixation of the postage to the envelope prior to mailing, the envelope containing this paper was returned to the undersigned firm on April 17, 2003 for postage due. At that time, the postage meter was no longer affixed to the package. Thus, on information and belief, the postage meter stamp either fell off of the package after delivery to the Post Office, or was removed from the envelope during processing by postal machinery.

5. The handling of the mail described in Paragraphs 1 through 3 above, is in keeping with the undersigned's standard daily practice of handling mail for the Commissioner of Trademarks. On information and belief, this practice has never previously resulted in mail being returned for unpaid postage.

6. The Applicant made a good faith effort to dispatch this paper on April 14, 2003 and timely acted with due diligence to comply with all Trademark Office deadlines. Moreover, the failure to accept the paper as timely filed would unfairly prejudice the Applicant.

7. For the reasons above, the Applicant requests that the paper be accepted as having been mailed on April 14, 2003 even though it has been necessary to resend the paper.

8. If a fee is necessary for consideration of this Motion, please charge deposit Account No. 01-0035 for the required fee.

Marie-Anne Mastrovito declares that she is the attorney for the Applicant herein, that all statements made herein of his own knowledge are true, and that all statements made on information and belief are believed to be true, and with knowledge that willful false statements and the like are punishable by fine or imprisonment, or both under 18 USC 1001, and may jeopardized the validity of the application or document or any registration resulting therefrom.

Respectfully submitted,

ABELMAN, FRAYNE & SCHWAB


By: MARIE-ANNE MASTROVITO

ABELMAN, FRAYNE & SCHWAB
150 East 42nd Street
New York, New York 10017
(212) 949-9022

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **MOTION FOR ACCEPTANCE OF ORIGINAL MAILING DATE** was served by first class mail, postage prepaid, this 17th day of April, 2003 upon Opposer:

Curtis L. Griggs
Managing Director
P.O. Box 2224
Sedona, Arizona 86339


MARIE-ANNE MASTROVITO



04-22-2003

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #73

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Opposition No. 123,817

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202

MOTION TO DISMISS

Pursuant to Trademark Rules 2.132(a) and (c), Applicant hereby moves for a dismissal of the referenced opposition action based on Opposer's failure to prosecute the opposition.

The Opposer's time for presenting testimony expired on February 13, 2003, however, to date, the Opposer has not presented any testimony, nor has Opposer contacted the Applicant to request an extension of time to do so.

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MARIE-ANNE MASTROVITO


Signature

Although this motion is being filed after the opening of the Applicant's testimony period, Applicant requests that the Board use its discretion to grant the instant motion pursuant to Rule 2.132(c).

For the reasons above, Applicant respectfully requests that the Board dismiss the opposition against the Applicant's Mark and enter judgment in favor of Applicant. In the alternative, if the Board does not grant this motion, Applicant requests that the Board reset the dates for Applicant to present testimony in defense of the opposition. The Applicant has presented testimony relating to its position as plaintiff in the counterclaim, and therefore these dates may remain as scheduled.

Respectfully submitted,


LAWRENCE E. ABELMAN
MARIE ANNE MASTROVITO

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150 EAST 42ND STREET
NEW YORK, NEW YORK 10017
(212) 949-9022

*Attorneys for Applicant,
A&E Television Networks*

Date: April 14, 2003

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **MOTION TO DISMISS** was served
by first class mail, postage prepaid, this 14th day of April, 2003 upon Opposer:

AO.COM, LLC > Curtis L. Griggs
Managing Director
P.O. Box 2224
Sedona, Arizona 86339


MARIE-ANNE MASTROVITO